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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,815	09/28/2001	Kent Ertugrul	ENVO-1-1001	3048
25315	7590	01/06/2005	EXAMINER	
BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			MEUCCI, MICHAEL D	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N . 09/966,815	Applicant(s) ERTUGRUL ET AL.	
	Examiner Michael D Meucci	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period of Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Requirement for Information***

1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

(1) In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), in a patent, or in a reexamination proceeding, the examiner or other Office employee may require the submission, from individuals identified under § 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, for example:

(iii) Related information: A copy of any non-patent literature, published application, or patent (U.S. or foreign), by any of the inventors, that relates to the claimed invention.

(iv) Information used to draft application: A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used to draft the application.

(v) Information used in invention process: A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used in the invention process, such as by designing around or providing a solution to accomplish an invention result.

(vii) In Use : Identification of any use of the claimed invention known to any of the inventors at the time the application was filed notwithstanding the date of the use.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

3. Claim 1 rejected under 35 U.S.C. 102(f) and/or (g) because the applicant did not invent the claimed subject matter. The resume of Boris Kolpackov was found through an online search. From this resume, evidence has been found claiming that another person, not of the inventive entity of this application, has participated in the design and development of the invention, thus precluding patentability solely on behalf of the stated inventors.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Hubert (U.S. 6,366,949 B1) in view of Wellner et al. (U.S. 6,628,767 B1) hereinafter referred to as Wellner.

Hubert teaches: a computer used by a first one of said users, said computer having a client program for said electronic mail communications medium (abstract); a computer used by one of said remaining non-users of said second communications medium, said computer also having a client program for said electronic mail communications medium (lines 27-47 of column 2); computer software adapted to modify said client program of said first user so as to cause said client program to include messages sent therefrom an embedded device to enable said non-users of said second communication medium to access a facility for adopting said second communications medium (line 27 of column 2 through line 35 of column 3); and a server for coordinating communications of said first user and said remaining non-user (abstract).

Hubert fails to teach the embedded device is a instant messaging window. However, Wellner discloses: "The active talker Java applet can also display text messages sent from any web-enabled participant to all other web-enabled participants, a subset of this group, or just to a single other participant. This capability is similar to well-known text chat applications such as IRC (Internet relay chat), MUD (multi-user dimension), Instant messages, and ICQ (I seek you)," (lines 1-7 of column 9).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have an instant messaging window as the embedded device.

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"Participants are 'logged in' to the running chat client automatically as a side effect of viewing the conference call, and they do not have to do anything more to receive chat messages. The conference call control page has an icon that indicates which of the other participants are web-enabled. Chat message senders can therefore see who is available on the call to receive text messages. Participants do not need to pre-arrange a means to communicate with each other off-line during the conference, and they do not need to say anything to each other about their off-line communication during the conference call. This feature makes it easy for two participants to communicate with each other off-line in secrecy while they are talking to a group," (lines 10-23 of column 9 in Wellner). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have an instant messaging window as the embedded device in the system as taught by Hubert.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nielsen (U.S. 5,870,548) discloses method and apparatus for altering sent electronic mail messages.

Owens et al. (U.S. 6,023,700) discloses electronic mail distribution system for integrated electronic communication.

Harvey et al. (U.S. 6,487,583 B1) discloses system and method for information and applications distribution.

Schmidt et al. (U.S. 6,546,554 B1) discloses browser-independent and automatic apparatus and method for receiving, installing and launching applications form a browser on a client computer.

Auerbach et al. (U.S. 6,549,937 B1) discloses system and method for multi-protocol communication in a computer network.

Sollee et al. (U.S. 6,757,732 B1) discloses text-based communications over a data network.

Zintel (U.S. 6,779,004 B1) discloses auto-configuring of peripheral on host/peripheral computing platform with peer networking-to-host/peripheral adapter for peer networking connectivity.

Freishtat et al. (WO 98/23058) discloses a system for integrated management of messaging and communications.

Schulzrinne et al. ("The IETF Internet Telephony Architecture and Protocols") discloses point-to-point voice transport between two IP hosts.

Rehfeldt et al. ("Business models for coordinating next generation enterprises") discloses adaptive, automated agent technology for semi-automatic coordination of business tasks and distribution of information.

Avvenuti et al. ("An agent-based framework for nomadic computing") discloses access to agent-based applications regardless of user location and terminal capabilities; and using agents in a web browser and common messaging facilities.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached at (571) 272-3896. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you



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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Jack Amy". The signature is fluid and cursive, with a large initial "J" and "A".

Jack Amy